

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

UNITED STATES OF AMERICA

v.

Case No.: 5:19-cr-5-JA-PRL

JUSTIN LEWIS
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REPORT AND RECOMMENDATION¹

In addition to twice appealing orders related to his detention, along with filing several notices of appeal and motions to proceed in forma pauperis (the history of which is recited in a recent report and recommendation (Doc. 237)), he has now filed an appeal related to a motion that hasn't been ruled on. (See Doc. 238, Notice of Appeal). In his most recent notice of appeal he says he's appealing the Court's denial of his motion to dismiss (Doc. 214). The problem is that aside from directing the government to respond to the motion to dismiss (see Doc. 217) – which it did (see Doc. 226)) – the Court has not yet ruled on the motion to dismiss.

Despite that important fact, he has filed his notice of appeal and seeks to proceed in forma pauperis on appeal. (See Docs. 239, motion to appeal IFP).

“A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal

¹ Within 14 days after being served with a copy of the recommended disposition, a party may file written objections to the Report and Recommendation's factual findings and legal conclusions. *See* Fed. R. Civ. P. 72(b)(3); Fed. R. Crim. P. 59(b)(2); 28 U.S.C. § 636(b)(1)(B); Local Rule 6.02. A party's failure to file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. *See* 11th Cir. R. 3-1.

case, may proceed on appeal in forma pauperis without further authorization,” unless the district court “certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis” or “a statute provides otherwise.” Fed. R. App. P. 24(a)(3).

I submit that because the Court has not rendered a decision on his motion to dismiss that his latest appeal is also not taken in good faith and that his motion to proceed in forma pauperis should be denied.

It is respectfully recommended that the Defendant’s pending motion to appeal in forma pauperis be denied. (Doc. 239).

RECOMMENDED in Ocala, Florida on February 24, 2022.



PHILIP R. LAMMENS
United States Magistrate Judge

c: Defendant
United States Attorney